

§ 87-47. Penalties imposed by Board; enforcement procedures.

(a) Repealed by Session Laws 1989, c. 709, s. 9.

(a1) The following activities are prohibited:

- (1) Offering to engage or engaging in electrical contracting without being licensed.
- (2) Selling, transferring, or assigning a license, regardless of whether for a fee.
- (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to offer to engage or to engage in electrical contracting.
- (4) Being convicted of a crime involving fraud or moral turpitude.
- (5) Engaging in fraud or misrepresentation to obtain a certification, obtain or renew a license, or practice electrical contracting.
- (6) Engaging in false or misleading advertising.
- (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence, gross incompetence, or gross misconduct in the practice of electrical contracting.

(a2) The Board may administer one or more of the following penalties if the applicant, licensee, or qualified individual has engaged in any activity prohibited under subsection (a1) of this section:

- (1) Reprimand.
- (2) Suspension from practice for a period not to exceed 12 months.
- (3) Revocation of the right to serve as a listed qualified individual on any license issued by the Board.
- (4) Revocation of license.
- (5) Probationary revocation of license or the right to serve as a listed qualified individual on any license issued by the Board, upon conditions set by the Board as the case warrants, and revocation upon failure to comply with the conditions.
- (6) Revocation of certification.
- (7) Refusal to certify an applicant or a qualified individual.
- (8) Refusal to issue a license to an applicant.
- (9) Refusal to renew a license.

(a3) In addition to administering a penalty under subsection (a2) of this section, the Board may assess a civil penalty of not more than one thousand dollars (\$1,000) against a licensee or a qualified individual who has engaged in an activity prohibited under subsection (a1) of this section or has violated another provision of this Article or a rule adopted by the Board. The clear proceeds of civil penalties collected under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

In determining the amount of a civil penalty, the Board shall consider:

- (1) The degree and extent of harm to the public safety or to property, or the potential for harm.
- (2) The duration and gravity of the violation.
- (3) Whether the violation was committed willfully or intentionally, or reflects a continuing pattern.
- (4) Whether the violation involved elements of fraud or deception either to the public or to the Board, or both.
- (5) The violator's prior disciplinary record with the Board.
- (6) Whether and the extent to which the violator profited by the violation.

(a4) Any person, including the Board and its staff on their own initiative, may prefer charges pursuant to this section, and such charges must be submitted in writing to the Board.

The Board may, without a hearing, dismiss charges as unfounded or trivial. The Board may issue a notice of violation based on the charges, to be served by a member of the Board's staff or in accordance with Rule 4 of the Rules of Civil Procedure, against any person, partnership, firm, or corporation for engaging in an activity prohibited under subsection (a1) of this section or for a violation of the provisions of this Article or any rule adopted by the Board. The person or other entity to whom the notice of violation is issued may request a hearing by notifying the Board in writing within 20 days after being served with the notice of violation. Hearings shall be conducted by the Board or an administrative law judge pursuant to Article 3A of Chapter 150B of the General Statutes. In conducting hearings, the Board may remove the hearings to any county in which the offense, or any part thereof, was committed if in the opinion of the Board the ends of justice or the convenience of witnesses require such removal.

(a5) If the person or other entity does not request a hearing under subsection (a4) of this section, the Board shall enter a final decision and may impose penalties against the person or other entity. If the person or other entity is not a licensee or a qualified individual, the Board may impose penalties under subsection (a2) of this section. If the person or other entity is a licensee or a qualified individual, the Board may impose penalties under subsection (a2) of this section, subsection (a3) of this section, or both.

(b) The Board shall adopt and publish rules, in accordance with Chapter 150B of the General Statutes and consistent with the provisions of this Article, governing the matters contained in this section.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding charges and notices of violation pursuant to this section. This record shall include, for each person, partnership, firm, and corporation charged or notified of a violation, the date and nature of each charge or notice of violation, investigatory action taken by the Board, any findings by the Board, and the disposition of the matter.

(d) The Board may reinstate a qualified individual's certification and may reinstate a license after having revoked it, provided that one year has elapsed from revocation until reinstatement and that the vote of the Board for reinstatement is by a majority of its members.

The Board shall immediately notify the Secretary of State and the electrical inspectors within the licensee's county of residence upon the revocation of a license or the reissuance of a license which had been revoked.

(e) In any case in which the Board is entitled to convene a hearing to consider imposing any penalty provided for in subsection (a2) or (a3) of this section, the Board may accept an offer in compromise of the charge, whereby the accused shall pay to the Board a penalty of not more than one thousand dollars (\$1,000). The clear proceeds of penalties collected by the Board under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1969, c. 669, s. 1; 1973, c. 1331, s. 3; 1979, c. 904, s. 11; 1989, c. 709, s. 9; 1995, c. 114, s. 4; 1998-215, s. 132.)